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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/845,976 04/30/01 FANEK

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EXAMINER

QM32/0913

JOSHUA L. COHEN
RATNER & PRESTIA BERWYN
ONE WESTLAKES, SUITE 301
P.O. BOX 980
VALLEY FORGE PA 19482-0980

CASTELLANO, S

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/845,976

Applicant(s)

Parek, Jr.

Examiner

Castellano

Group/Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3727

Keep¹.
(K)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- ✓ 2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 positively recites the door of the container wherein the door and the container were not part of the subject of the subcombination of the carrier of claim 1. The scope of claim 2 can't be determined because it can't be determined if the door and container are part of what is being claimed (the combination of the container and carrier) or if the door and container are intended to be used with the subcombination of the carrier and the door and container are functionally claimed.

- ✓ 3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- ✓ 4. Claims 1-5, 7, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Marek.

Marek discloses a carrier configured to hold a container having a door. Marek includes a ^{mobile} body (the sidewalls and bottom of the container) and an extension (the cable 58, door 50 and ^{the body is mobile insofar as the container can be slid along a floor surface}

Art Unit: 3727

coupled to said body for reciprocal movement adapted for engagement of hypothetical door of the container
flange 56). A lever and foot pedal (70) and springs (60, 62) complement the functionality of the extension.

5. Claims 1-3, 5, 7, 8, 10, 12, 14, 16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Patey.

Patey discloses a container system including a container (72, 74), a door (18) capable of *(movement back and forth)* reciprocation, a carrier body (12) and extension (60) coupled to lever/ foot pedal (54).

6. Claims 1-3, 6, 10-14, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowe.

Rowe discloses a container system including a container (21), a door (23) capable of *(movement back and forth)* reciprocation, a carrier body (14, 16, 17, 18, 20), an extension (24, 32, 34) and a locking member (38, 40, 42).

7. Claims 1, 2, 10-13 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sulcek.

Sulcek discloses a container system including a container (15), a door (17) capable of reciprocation, a carrier body (12) and an extension (sliding rails 20, 31).

8. Claims 1, 2, 10-13 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fink.

Fink discloses a container system including a container (70, 71), a sliding door (14), a carrier body (12) and an extension (16).

Art Unit: 3727

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marek in view of Baker et al. (Baker).

Marek discloses the invention except for the locking member and barrier. Baker discloses a locking member and barrier (30) which is positioned over the foot pedal to lock the foot pedal so that it can't be depressed. It would have been obvious to add the locking member and barrier to Marek to prevent the inadvertent and unauthorized opening of the door of a container within a carrier.

11. Claims 12-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink in view Marek.

Fink discloses the invention except for the lever and springs. Marek teaches a carrier configured to hold a container having a door. Marek includes a body (the sidewalls and bottom of the container) and an extension (the cable 58, door 50 and flange 56). A lever and foot pedal (70) and springs (60, 62) complement the functionality of Marek's extension. It would have been obvious to replace Fink's door with the lid and door of Marek in order to provide a partially restricted access to the container to prevent an excessive release of waste odor, gas or germs to the atmosphere when the container is opened. It would have been further obvious to replace the

Art Unit: 3727

handle extension of Fink with the cable (58), springs (60, 62) and foot pedal (70) of Marek to provide a convenient means to open and close the container when the user's hands are full and the gripping of a handle would be awkward.

12. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink in view of Marek as applied to claims 12 and 14 above, and further in view of Baker.


The combination discloses the invention except for the locking member and barrier. Baker discloses a locking member and barrier (30) which is positioned over the foot pedal to lock the foot pedal so that it can't be depressed. It would have been obvious to add the locking member and barrier to the combination to prevent the inadvertent and unauthorized opening of the door of a container within a carrier.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Art Unit: 3727

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.


Stephen Castellano
Primary Examiner
Art Unit 3727

September 7, 2001